

75-1-403 Pleadings -- Notice.

In formal proceedings involving inter vivos or testamentary trusts, including proceedings to modify or terminate a trust, estates of decedents, minors, protected persons, or incapacitated persons, and in judicially supervised settlements, the following apply:

- (1) Interests to be affected shall be described in pleadings which give reasonable information to owners by name or class, by reference to the instrument creating the interests, or in any other appropriate manner.
- (2) Notice is required as follows:
 - (a) Notice as prescribed by Section 75-1-401 shall be given to every interested person. Notice may be given both to a person and to another who may bind him.
 - (b) Whenever notice to a person is required or permitted under this chapter, notice to another person who may represent and bind the person represented under this section constitutes notice to the person represented.
- (3) Persons are bound by orders binding others in the following cases:
 - (a) To the extent there is no conflict of interest between the holder of a general testamentary power of appointment and the persons represented with respect to a particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.
 - (b) To the extent there is no conflict of interest between the representative and the person represented with respect to a particular question or dispute:
 - (i) a conservator may represent and bind the person whose estate he controls;
 - (ii) a guardian may represent and bind the ward if no conservator of the ward's estate has been appointed;
 - (iii) an agent having authority to do so may represent and bind the principal;
 - (iv) a trustee may represent and bind the beneficiaries of the trust;
 - (v) a personal representative of a decedent's estate may represent and bind persons interested in the estate; and
 - (vi) if no conservator or guardian has been appointed, a parent may represent and bind the parent's minor or unborn child.
 - (c) Unless otherwise represented, a minor, incapacitated or unborn person, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented and bound by another person having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the representative and the person represented.
- (4) Even if there is representation under this section, if the court determines that representation of the interest might otherwise be inadequate, the court may appoint a guardian ad litem to represent the interest of, and approve an agreement on behalf of, a minor, incapacitated or unborn person, or a person whose identity or location is unknown.
- (5) If not precluded by conflict of interest, a guardian ad litem may be appointed to represent several persons or interests. In approving an agreement, a guardian ad litem may consider the general family benefit accruing to the living members of the family of the person represented.
- (6) Whenever consent may be given by a person pursuant to this chapter, the consent of a person who may represent and bind the person represented under this section is the consent of, and is binding on, the person represented unless the person represented objects to the representation before the consent would otherwise become effective.

Amended by Chapter 93, 2010 General Session